

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
KEITH PETERSEN,)
d.b.a. KEITH PETERSEN AND)
SON COMPANY,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 723

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of a \$50.00 civil penalty for an alleged open-burning violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 6th day of January, 1975, at Tacoma, Washington; and appellant, Keith Petersen d.b.a. Keith Petersen and Son Company, appearing pro se and respondent, Puget Sound Air Pollution Control Agency, appearing through Keith D. McGoffin; and Board members present at the hearing being Walt Woodward (presiding) and Chris Smith and the Board having considered

1 the sworn testimony, exhibits, records and files herein and having entered
2 on the 13th day of January, 1975, its proposed Findings of Fact,
3 Conclusions of Law and Order, and the Board having served said proposed
4 Findings, Conclusions and Order upon all parties herein by certified
5 mail, return receipt requested and twenty days having elapsed from said
6 service; and

7 The Board having received no exceptions to said proposed Findings,
8 Conclusions and Order; and the Board being fully advised in the premises;
9 now therefore,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
11 Findings of Fact, Conclusions of Law and Order, dated the 13th day of
12 January, 1975, and incorporated by this reference herein and attached
13 hereto as Exhibit A, are adopted and hereby entered as the Board's Final
14 Findings of Fact, Conclusions of Law and Order herein.

15 DONE at Lacey, Washington, this 10th day of February, 1975.

16 POLLUTION CONTROL HEARINGS BOARD

17
18 Chris Smith
CHRIS SMITH, Chairman

19
20 Walt Woodward
21 WALT WOODWARD, Member

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

1 the United States Bureau of the Census.

2 V.

3 Appellant sought a permit for the fire from the Tacoma Fire
4 Department but was informed that none was required. Appellant also
5 contended that when he inquired of the "ecology people" that he likewise
6 was informed no permit was required, but appellant could not identify
7 specifically what governmental agency he contacted to reach the "ecology
8 people." Appellant, a contractor for 28 years, knew of respondent, its
9 headquarters location and its relation to air pollution matters.

10 VI.

11 The fire was observed by an inspector on respondent's staff. He
12 issued Notice of Violation No. 10060 to appellant. Subsequently, and in
13 connection therewith, respondent served on appellant Notice of Civil
14 Penalty No. 1757 (amended) in the sum of \$50, which is the subject of
15 this appeal.

16 VII.

17 Any Conclusion of Law hereinafter stated which is deemed to be a
18 Finding of Fact is adopted herewith as same.

19 From these Findings, the Pollution Control Hearings Board comes
20 to these

21 CONCLUSIONS OF LAW

22 I.

23 Appellant was in violation of Section 9.02 of Regulation I as cited
24 in Notice of Violation No. 10060.

25 II.

26 As to the reasonableness of the penalty in Notice of Civil Penalty

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 No. 1757 (amended), the Board recognizes that it is only one-fifth of
2 the maximum allowable amount and is consistent with respondent's policy
3 relative to first offense violations. Appellant, however, appears to be
4 a forthright person who, after making a fairly reasonable effort to
5 obtain a permit for the fire, proceeded in good faith to ignite the fire
6 under the understanding that none was required. Therefore, further
7 mitigation of the penalty is indicated.

8 III.

9 Any Finding of Fact herein stated which is deemed to be a Conclusion
10 of Law is adopted herewith as same.

11 Therefore, the Pollution Control Hearings Board issues this

12 ORDER

13 The appeal is denied, appellant is directed to pay respondent \$25,
14 the balance of \$25 is suspended pending no similar violation for a period
15 of six months from the date this Order becomes final.

16 DONE at Lacey, Washington this 13th day of January, 1975.

17 POLLUTION CONTROL HEARINGS BOARD

18 Chris Smith
19 CHRIS SMITH, Chairman

20 Walt Woodward
21 WALT WOODWARD, Member

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27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER